

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

REYNALDO SALGADO-SANTANA

Petitioner

vs

UNITED STATES OF AMERICA

Respondent

CIVIL 04-1941CCC

ORDER DENYING CERTIFICATE OF APPEALABILITY

Presently before the Court is petitioner Reinaldo Salgado-Santana's Motion for Certificate of Appealability (**docket entry 21**). On March 12, 2003, petitioner was sentenced to a term of imprisonment of 132 months for the violations of 21 U.S.C. §841 (conspiracy to possess with intent to distribute cocaine) and 18 U.S.C. §§1956(a)(1)(A) and 1956(h) (conspiracy to launder monetary instruments). The Court of Appeals for the First Circuit dismissed plaintiff's appeal on October 29, 2003 for lack of prosecution. On July 9, 2004 Salado-Santana filed this Motion to Vacate, Set Aside or Correct a Federal Sentence pursuant to 28 U.S.C. §2255 which this Court dismissed on July 19, 2005 (**docket entries 17 and 18**).

Petitioner has now filed a Motion for a Certificate of Appealability (**docket entry 21**). An applicant's appeal of a final order in a habeas corpus proceeding brought pursuant to 28 U.S.C. §2255 may not proceed unless a district court judge issues a Certificate of Appealability ("COA"). 28 U.S.C. §2253(c)(1)(3). In order to obtain a COA, petitioner must set forth specific issues that amount to a "substantial showing of the denial of a constitutional right." 28 U.S.C. §2253(c) (2). This means that the petitioner must show that either "reasonable jurists could debate whether . . . the petition should have been resolved in a different manner," Slack v. McDaniel, 529 U.S. 473, 484-8 5, 120 S.Ct. 1595, 1603-04, 146 L.Ed.2d 542 (2000), or that the issues presented in the petition were adequate to deserve encouragement to proceed further." Id. (quoting Barefoot v. Estelle, 463 U.S. 880, 893 & n. 4, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983)).

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After reviewing the record, the Court concludes that petitioner has not made "a substantial showing of a denial of a constitutional right," and that no meritorious grounds for appeal exist in his case. The issues raised and the arguments in support of them are essentially the same as those raised in the §2255 petition and ruled upon in our order of July 19, 2005, which incorporated the Magistrate-Judge's Report and Recommendation. Based on the foregoing, petitioner's application for a Certificate of Appealability pursuant to 28 U.S.C. §2253 (**docket entry 21**) is DENIED.

SO ORDERED.

At San Juan, Puerto Rico, on December 16, 2005.

S/CARMEN CONSUELO CEREZO
United States District Judge